

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 1:19-00308

JAN RUCKER

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's motion to continue the trial and pretrial dates. (ECF No. 45.) Counsel for defendant states that additional time is needed because counsel was recently retained and has not had a sufficient opportunity to discuss the case with defendant, especially because COVID-19 precautions have made in-person meetings much more difficult.

(Id.) Counsel believes that phone meetings have not resulted in defendant's full comprehension of counsel's explanations and advice, leaving defendant insufficiently prepared to proceed.

(Id.) Pursuant to this court's earlier order (ECF No. 32), a jury trial was set in this case for September 9, 2020. Proposed voir dire questions, jury instructions, and witness lists were due by September 2, 2020. (Id.) For good cause shown, the court hereby **GRANTS** defendant's motion to continue.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the best interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h) (7) (A), and **GRANTS** the defendant's motion to continue. In deciding to grant defendant's motion, the court considered the factors outlined in 18 U.S.C. § 3161(h) (7) (B) and finds that denying the motion "would deny counsel for the defendant . . . the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." Id. § 3161(h) (7) (B) (iv).

Accordingly, the court hereby **ORDERS** as follows:

- I. Proposed Jury Instructions, Proposed Voir Dire, and Proposed Witness Lists are due to the court by **November 3, 2020;**
- II. Trial of this action is continued until **November 10, 2020, at 9:30 a.m. in Bluefield;**
- III. Pursuant to 18 U.S.C. § 3161(h) (7) (A), the time from the filing of defendant's motion to the new trial date of November 10, 2020, is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to all counsel of record, to the United States

Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 1st day of September, 2020.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Senior United States District Judge